



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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08/908,852 08/08/97 ROE

D 5494CR

QM12/0308

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EXAMINER

POLUTTA, M

ART UNIT

PAPER NUMBER

3761

20

DATE MAILED:

03/08/00

INTERVIEW SUMMARY

All participants (applicant, applicant's representative, PTO personnel):

(1) Ex. M. Polutta (3)

(2) Ms. C. Wei-Berk (4)

Date of Interview 3/7/00

Type: ☒ Telephonic ☐ Personal (copy is given to ☐ applicant ☐ applicant's representative).

Exhibit shown or demonstration conducted: ☐ Yes ☐ No If yes, brief description:

Agreement ☐ was reached. ☒ was not reached.

Claim(s) discussed: 1

Identification of prior art discussed: Buchalter, Duncan

Description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's

representative argued that their lotion is applied in a varying amount at a location and patterning wherein Buchalter just applies the lotion. While Duncan teaches droplets, it is not a pattern.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

1. ☒ It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a response to the last Office action has been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

2. ☐ Since the Examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action. Applicant is not relieved from providing a separate record of the interview unless box 1 above is also checked.

Examiner Note: You must sign this form unless it is an attachment to another form.

Mark O. Polutta

MARK O. POLUTTA
PRIMARY EXAMINER

FORM PTOL-413 (REV.1-96)

Manual of Patent Examining Procedure, Section 713.04 Substance of Interview must Be Made of Record

A complete written statement as to the substance of any face-to-face or telephone interview with regard to an application must be made of record, whether or not an agreement with the examiner was reached at the interview.

§1.133 Interviews

(b) In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons for the request must be filed by the applicant. An interview does not remove the necessity for response to Office action under 1.111, 1.135. (35 U.S.C. 132)

§ 1.2. Business to be transacted in writing. All business with the Patent or Trademark Office should be transacted in writing. The presence of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete or fails to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on patentability.

Examiners must complete a two-sheet carbon interleaf Interview Summary Form for each interview held after January 1, 1978 where a matter has been discussed during the interview by checking the appropriate boxes and filling in the blanks in neat handwritten form using a ball point pen. Only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview record below.

The Interview Summary Form shall be given an appropriate paper number, placed in the right hand portion of the file, and listed on the "Cover" wrapper. The docket and serial register cards need not be updated to reflect interviews. In a personal interview, the duplicate copy of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephonic interview, the copy is mailed to the applicant's address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if dictation, the Form should be mailed promptly after the telephonic interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Serial Number of the application
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (personal or telephonic)
- Name of participant(s) (applicant, attorney or agent, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the claims discussed
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of amendments or claims agreed as being allowable). (Agreements as to allowability are tentative and do not restrict further action by the contrary.)
- The signature of the examiner who conducted the interview
- Names of other Patent and Trademark Office personnel present.

The Form also contains a statement reminding the applicant of his responsibility to record the substance of the interview.

It is desirable that the examiner orally remind the applicant of his obligation to record the substance of the interview in each case unless the examiner agrees that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequate to do so, the examiner should check a box at the bottom of the Form informing the applicant that he need not submit a separate record of the substance of the interview.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner. The identification of arguments need not be elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant should emphasize and fully describe those arguments which he feels were or might be persuasive to the examiner,
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete or accurate, the examiner should notify the applicant one month from the date of the notifying letter or the remainder of any period for response, whichever is longer, to complete the response. Failure to do so may result in abandonment of the application (37 CFR 1.135(c)).

Examiner to Check for Accuracy

Applicant's summary of what took place at the interview should be carefully checked to determine the accuracy of any argument or statement made by the applicant during the interview. If there is an inaccuracy and it bears directly on the question of patentability, it should be pointed out in the next Office action. If the claims are allowable for other reasons of record, the examiner should send a letter setting forth his or her version of the statement attributed to the applicant. If the record is complete and accurate, the examiner should place the indication "Interview record OK" on the paper recording the substance of the interview along with the examiner's initials.